

**U.S. District Court  
CENTRAL DISTRICT OF ILLINOIS (Springfield)  
CIVIL DOCKET FOR CASE #: 3:21-cv-03212-SEM-KLM**

Freehan et al v. Berg et al  
Assigned to: Judge Sue E. Myerscough  
Referred to: Magistrate Judge Karen L. McNaught  
Demand: \$0  
Cause: 28:1983 Civil Rights

Date Filed: 10/01/2021  
Jury Demand: None  
Nature of Suit: 950 Constitutional – State Statute  
Jurisdiction: Federal Question

**Plaintiff**

**Timothy Freehan**

represented by **James A Tanford**  
EPSTEIN COHEN SEIF & PORTER LLP  
2303 Woodstock Pl  
Bloomington, IN 47401  
812-332-4966  
Fax: 317-638-9891  
Email: tanford@indiana.edu  
*ATTORNEY TO BE NOTICED*

**Robert Epstein**  
EPSTEIN SEIF PORTER & BEUTEL LLP  
Suite 505  
50 S. Meridian Street  
Indianapolis, IN 46204  
317-639-1326  
Email: epstein.law.clerk@gmail.com  
*ATTORNEY TO BE NOTICED*

**Jerrold H Stocks**  
FEATHERSTUN GAUMER STOCKS FLYNN  
& ECK  
Suite 240  
101 S State St  
PO Box 1760  
Decatur, IL 62525-1760  
217-429-4453  
Fax: 217-425-8892  
Email: jstocks@decatur.legal  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Joseph Grody**

represented by **James A Tanford**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Robert Epstein**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Jerrold H Stocks**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Full Pull Wines, LLC**

represented by **James A Tanford**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Robert Epstein**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Jerrold H Stocks**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Austin Marcum**

represented by **James A Tanford**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Robert Epstein**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Jerrold H Stocks**

(See above for address)

*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Cynthia Berg**

*Commissioner and Chairman of the Illinois  
Liquor Control Commission*

represented by **Lisa A Cook**

ILLINOIS ATTORNEY GENERAL

500 S Second St

Springfield, IL 62701

217-782-9014

Fax: 217-524-5091

Email: Lisa.Cook@ilag.gov

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Xinyi Wei**

OFFICE OF THE ATTORNEY GENERAL

500 South Second Street

Springfield, IL 62701

217-782-1841

Fax: 217-782-8767

Email: Xinyi.Wei@ilag.gov

*TERMINATED: 06/06/2022*

*ATTORNEY TO BE NOTICED*

**Defendant**

**Thomas Gibbons**

*Commissioner of the Illinois Liquor Control  
Commission*

represented by **Lisa A Cook**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Xinyi Wei**

(See above for address)  
**TERMINATED: 06/06/2022**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Patricia Pulido Sanchez**

*Commissioner of the Illinois Liquor Control  
Commission*

represented by **Lisa A Cook**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Xinyi Wei**

(See above for address)  
**TERMINATED: 06/06/2022**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Melody Spann Cooper**

*Commissioner of the Illinois Liquor Control  
Commission*

represented by **Lisa A Cook**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Xinyi Wei**

(See above for address)  
**TERMINATED: 06/06/2022**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Julietta Lamalfa**

*Commissioner of the Illinois Liquor Control  
Commission*

represented by **Lisa A Cook**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Xinyi Wei**

(See above for address)  
**TERMINATED: 06/06/2022**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Donald G O'Connell**

*Commissioner of the Illinois Liquor Control  
Commission*

represented by **Lisa A Cook**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Xinyi Wei**

(See above for address)

TERMINATED: 06/06/2022

ATTORNEY TO BE NOTICED

**Defendant****Steven Powell***Commissioner of the Illinois Liquor Control  
Commission*represented by **Lisa A Cook**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

**Xinyi Wei**

(See above for address)

TERMINATED: 06/06/2022

ATTORNEY TO BE NOTICED

**Defendant****Wine and Spirits Distributors of Illinois**represented by **Michael T. Layden**

PRENDERGAST LAYDEN, LTD.

Ste 31st Floor

191 N. Wacker Dr.

Chicago, IL 60606

312-641-0881

Email: mlayden@rjpltd.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

**Intervenor Defendant****Wine and Spirits Distributors of Illinois**

TERMINATED: 07/05/2022

represented by **Michael T. Layden**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Email All Attorneys

Email All Attorneys and Additional Recipients

Date Filed	#	Docket Text
10/01/2021	<u>1</u>	COMPLAINT <i>all plaintiffs</i> against All Defendants ( Filing fee \$ 402 receipt number AILCDC-3772707.), filed by Full Pull Wines, LLC, Timothy Freehan, Joseph Grody. (Attachments: # <u>1</u> Civil Cover Sheet)(Stocks, Jerrold) Modified on 11/1/2021 to include Plaintiff Grody as a filer (MJC). (Entered: 10/01/2021)
11/16/2021	<u>2</u>	NOTICE of Appearance of Attorney by Robert Epstein on behalf of All Plaintiffs (Epstein, Robert) (Entered: 11/16/2021)
11/17/2021	<u>3</u>	Summons Issued as to Cynthia Berg. Original mailed to attorney for service. (MJC) (Entered: 11/17/2021)
12/01/2021	<u>4</u>	SUMMONS Returned Executed by Full Pull Wines, LLC, Joseph Grody, Timothy Freehan. All Defendants. (Epstein, Robert) (Entered: 12/01/2021)
12/14/2021	<u>5</u>	NOTICE of Appearance of Attorney by Xinyi Wei on behalf of Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez (Wei, Xinyi) (Entered: 12/14/2021)

12/21/2021	<u>¶ 6</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. Responses due by 1/4/2022 (Wei, Xinyi) (Entered: 12/21/2021)
12/21/2021	<u>¶</u>	TEXT ORDER BY RICHARD MILLS, United States District Judge: The Defendants' unopposed motion under Federal Rule of Civil Procedure 6(b)(1)(A) for an extension of time in which to answer or otherwise plead <u>6</u> is GRANTED. The deadline for the Defendants to answer or otherwise plead is extended to January 21, 2022. Entered on 12/21/2021. (MJC) (Entered: 12/21/2021)
01/20/2022	<u>¶ 7</u>	NOTICE of Appearance of Attorney by James A Tanford on behalf of All Plaintiffs (Tanford, James) (Entered: 01/20/2022)
01/21/2022	<u>¶ 8</u>	MOTION to Dismiss <i>for improper venue, or alternatively, to Transfer Venue</i> , MOTION to Transfer Case by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. Responses due by 2/4/2022 (Wei, Xinyi) (Entered: 01/21/2022)
01/21/2022	<u>¶ 9</u>	MEMORANDUM in Support re <u>8</u> MOTION to Dismiss <i>for improper venue, or alternatively, to Transfer Venue</i> MOTION to Transfer Case filed by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. (Attachments: # <u>1</u> Exhibit 1)(Wei, Xinyi) (Entered: 01/21/2022)
01/25/2022	<u>¶ 10</u>	First MOTION to Intervene ( <i>Unopposed</i> ) by Intervenor Defendant Wine and Spirits Distributors of Illinois. Responses due by 2/8/2022 (Layden, Michael) (Entered: 01/25/2022)
01/25/2022	<u>¶ 11</u>	MEMORANDUM in Support re <u>10</u> First MOTION to Intervene ( <i>Unopposed</i> ) filed by Intervenor Defendant Wine and Spirits Distributors of Illinois. (Layden, Michael) (Entered: 01/25/2022)
02/08/2022	<u>¶ 12</u>	AMENDED COMPLAINT against All Plaintiffs, filed by Full Pull Wines, LLC, Joseph Grody, Timothy Freehan.(Epstein, Robert) (Entered: 02/08/2022)
02/11/2022	<u>¶ 13</u>	MEMORANDUM in Opposition re <u>8</u> MOTION to Dismiss <i>for improper venue, or alternatively, to Transfer Venue</i> MOTION to Transfer Case filed by Plaintiffs Timothy Freehan, Full Pull Wines, LLC, Joseph Grody, Austin Marcum. (Attachments: # <u>1</u> Exhibit A– O'Leary Declaration, # <u>2</u> Exhibit B– Tanford Declaration, # <u>3</u> Exhibit C– Witness list from Lebamoff v. Rauner)(Tanford, James) (Entered: 02/11/2022)
02/11/2022	<u>¶</u>	TEXT ORDER: On January 21, 2022, the Defendants filed a motion to dismiss for improper venue or, alternatively, to transfer venue <u>8</u> . The motion was directed at the original Complaint <u>1</u> . On February 8, 2022, the Plaintiffs filed their First Amended Complaint <u>12</u> . Accordingly, the Defendants' motion to dismiss is now moot under Local Rule 7.1(E). The Clerk will terminate the motion to dismiss <u>8</u> . The Defendants may file another motion in accordance with the Federal Rule of Civil Procedure. The Court presumes that Wine and Spirits Distributors of Illinois continues to seek leave to intervene in the action pursuant to Rule 24 of the Federal Rules of Civil Procedure. Because the motion was based on the allegations of the original Complaint which is no longer before the Court, however, the Clerk will terminate the motion for leave to intervene <u>10</u> . Wine and Spirits Distributors of Illinois is granted leave to file a motion for leave to intervene that is based on the allegations of the amended complaint. Entered by Senior District Judge Richard Mills on 2/11/2022. (GL) (Entered: 02/11/2022)
02/22/2022	<u>¶ 14</u>	MOTION to Dismiss for Lack of Jurisdiction <i>or alternatively to transfer venue</i> by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. Responses due by 3/8/2022 (Wei, Xinyi) (Entered: 02/22/2022)
02/22/2022	<u>¶ 15</u>	MEMORANDUM in Support re <u>14</u> MOTION to Dismiss for Lack of Jurisdiction <i>or alternatively to transfer venue</i> filed by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta

		Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Wei, Xinyi) (Entered: 02/22/2022)
02/23/2022	<u>16</u>	ORDER CONCERNING CONSENT TO MAGISTRATE JUDGE IN CASES INVOLVING INITIAL DISPOSITIVE MOTION entered by U.S. Magistrate Judge Tom Schanzle–Haskins on 2/23/2022. (Attachment: # <u>1</u> Form) (LB) (Entered: 02/23/2022)
02/23/2022	<u>17</u>	Second MOTION to Intervene by Intervenor Defendant Wine and Spirits Distributors of Illinois. Responses due by 3/9/2022 (Layden, Michael) (Entered: 02/23/2022)
02/23/2022	<u>18</u>	MEMORANDUM in Support re <u>17</u> Second MOTION to Intervene ( <i>Unopposed</i> ) filed by Intervenor Defendant Wine and Spirits Distributors of Illinois. (Layden, Michael) (Entered: 02/23/2022)
02/25/2022	<u>19</u>	MEMORANDUM in Opposition re <u>14</u> MOTION to Dismiss for Lack of Jurisdiction <i>or alternatively to transfer venue</i> filed by Plaintiffs Timothy Freehan, Full Pull Wines, LLC, Joseph Grody, Austin Marcum. (Attachments: # <u>1</u> Exhibit A– O'Leary Declaration, # <u>2</u> Exhibit B– Tanford Declaration, # <u>3</u> Exhibit C– Witness list from Lebamoff v. Rauner, # <u>4</u> Exhibit D– Conference List, # <u>5</u> Exhibit E– Caseloads 2019–20, # <u>6</u> Exhibit F– Caseloads 2017–18, # <u>7</u> Exhibit G– Caseloads 2015–16)(Tanford, James) (Entered: 02/25/2022)
03/10/2022	<u>20</u>	MOTION for Leave to File <i>Reply in Support of Defendants' Motion to Dismiss, or alternatively, to Transfer Venue</i> by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. Responses due by 3/24/2022 (Attachments: # <u>1</u> Exhibit Ex A – proposed Reply, # <u>2</u> Exhibit Ex A–1 – exhibit to proposed Reply)(Wei, Xinyi) (Entered: 03/10/2022)
03/11/2022	<u>20</u>	TEXT ORDER: The Defendants' Motion for leave to file a Reply in support of their Motion to Dismiss or, alternatively, to transfer venue <u>20</u> is GRANTED. The Clerk will docket and file the Reply [20–1] and exhibit [20–2] thereto. Entered by Senior District Judge Richard Mills on 3/11/2022. (GL) (Entered: 03/11/2022)
03/11/2022	<u>21</u>	Defendants' REPLY in Support of Their Motion re <u>14</u> MOTION to Dismiss for Lack of Jurisdiction <i>or alternatively to transfer venue</i> filed by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. (Attachments: # <u>1</u> Exhibits to Reply)(GL) (Entered: 03/11/2022)
04/11/2022	<u>21</u>	TEXT ORDER OF REASSIGNMENT entered by Chief Judge Sara Darrow on April 11, 2022. Due to Magistrate Judge Tom Schanzle–Haskins's retirement, this case is reassigned to Magistrate Judge Karen L. McNaught for further proceedings.(LN) (Entered: 04/12/2022)
04/14/2022	<u>22</u>	NOTICE of Appearance of Attorney by Lisa A Cook on behalf of Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez (Cook, Lisa) (Entered: 04/14/2022)
04/14/2022	<u>23</u>	MOTION to Substitute Attorney, Xinyi Wei to be replaced by Lisa Cook, by Defendants Cynthia Berg, Melody Spann Cooper, Thomas Gibbons, Julieta Lamalfa, Donald G O'Connell, Steven Powell, Patricia Pulido Sanchez. Responses due by 4/28/2022 (Cook, Lisa) (Entered: 04/14/2022)
04/29/2022	<u>23</u>	TEXT ORDER OF REASSIGNMENT entered by Chief Judge Sara Darrow on 4/29/2022. This case and the corresponding hearings are reassigned to Chief Judge Sara Darrow pending reassignment.(MC) (Entered: 04/29/2022)
05/04/2022	<u>23</u>	TEXT ORDER OF REASSIGNMENT entered by Chief Judge Sara Darrow on 5/4/2022. This case is reassigned to Judge Sue E. Myerscough for further proceedings. (LN) (Entered: 05/04/2022)
06/06/2022	<u>23</u>	TEXT ORDER by US Magistrate Judge Karen McNaught: defendant's motion to substitute <u>23</u> is ALLOWED. Xinyi Wei is terminated as counsel for defendants and Lisa Cook is allowed to substitute. Entered on 6/6/2022. (ME) (Entered: 06/06/2022)

07/05/2022	I	<p>TEXT ORDER: Before the Court is Wine &amp; Spirits Distributors of Illinois' (WSDI) Unopposed Motion for Leave to Intervene <u>17</u> . WSDI is a non–profit association of state–licensed distributors of alcoholic beverages in Illinois who conduct their business in accordance with the Illinois Liquor Control Act of 1934, which governs the licensing, taxing, importation and distribution of alcohol in Illinois. The Illinois legislature has adopted a three–tier system which regulates the sale of alcohol from producers to distributors to retailers. In their Amended Complaint <u>12</u> , the Plaintiffs challenge the constitutionality of the existing statutory framework governing Illinois' three–tier system. Specifically, Plaintiff Full Pull Wines LLC, an out–of–state liquor retailer, seeks to sell alcohol directly to end customers in Illinois, despite the fact that it is not licensed under Illinois law to do so, does not obtain its products from a licensed in–state distributor and, therefore, is not operating within the framework of Illinois' three–tier system. WSDI alleges Plaintiffs seek to eliminate the role of alcohol distributors by allowing out–of–state retailers to sell alcoholic liquor directly to consumers without first passing through the controls of the Illinois regulatory scheme. WSDI seeks to intervene in this matter in order to defend the constitutionality of Illinois' longstanding three–tier system and prevent what it claims will be direct and significant harm WSDI and its members will suffer if Plaintiffs are permitted to obtain judicial repeal of Illinois laws. The Plaintiffs do not object to WSDI's intervention as a Defendant in this litigation. The Court concludes that WSDI is entitled to intervene as a matter of right under Federal Rule of Civil of Procedure 24(a)(2) based on its interest in this action. Intervention of right under Rule 24(a) shall be granted if: the motion to intervene is timely; (2) the proposed intervenor has an interest related to the subject matter of the action; (3) disposition of the action threatens to impair that interest; and (4) the named parties inadequately represent the interest. See Wisc. Educ. Association Council v. Walker, 705 F.3d 640, 657–58 (7th Cir. 2013). Because WSDI is able to meet each element, its unopposed Motion for Leave to Intervene <u>17</u> is GRANTED. The Clerk is Directed to add Wine &amp; Spirits Distributors of Illinois as a Defendant in this action. Entered by Judge Sue E. Myerscough on 7/5/2022. (GL) (Entered: 07/05/2022)</p>
09/12/2022	I <u>24</u>	<p>OPINION: Based on the foregoing, venue is improper under 28 U.S.C. § 1391(b)(1) because none of the Defendants are residents of the Central District of Illinois. Pursuant to 28 U.S.C. § 1406(a), the Court finds it is in the interest of justice to transfer this case to the Northern District of Illinois. For the reasons stated herein, the Motion to Dismiss or, Alternatively, to Transfer Venue, [d/e 14] is GRANTED. SEE WRITTEN OPINION. Entered by Judge Sue E. Myerscough on 9/9/2022. (ME) (Entered: 09/12/2022)</p>